

LEE R. HEATH

IBLA 82-84

Decided November 24, 1981

Appeal from decision of Idaho State Office, Bureau of Land Management, declaring unpatented mining claims abandoned and void. I MC 24489 and I MC 24490.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Recordation of Mining Claims and Abandonment -- Mining Claims: Abandonment

The failure to file the instruments required by sec. 314 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744 (1976), and 43 CFR 3833.1 and 3833.2 in the proper Bureau of Land Management office within the time periods prescribed therein conclusively constitutes abandonment of the mining claim by the owner.

APPEARANCES: Lee R. Heath, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Lee R. Heath appeals from the October 20, 1981, decision of the Idaho State Office, Bureau of Land Management (BLM), which declared the unpatented Blue Jacket #1 and Blue Jacket #2 lode mining claims, I MC 24489 and I MC 24490, abandoned and void because evidence of assessment work or notice of intention to hold the mining claims had not been filed with BLM on or before December 30, 1980, as required by section 314 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744 (1976), and 43 CFR 3833.2-1.

Appellant states he thought he had complied with all the requirements when he recorded the claims with BLM in 1979. He states he has performed his annual assessment work on the claims every year since 1968,

and has recorded the proofs of labor each year in the records of Bannock County, Idaho. He submitted with his appeal his proofs of labor for 1980, recorded in Bannock County August 26, 1980, and for 1981, recorded August 24, 1981. However, he does not allege that he made any filing with BLM in 1980.

[1] The above-cited statute and regulation impose a conclusive presumption of mining claim abandonment for any failure to file the required documents in the proper BLM office by the date on which they are due. The Board has no authority to excuse lack of compliance with the statute or to afford relief from the statutory consequences. Lynn Keith, 53 IBLA 192, 88 I.D. 369 (1981). Appellant may wish to confer with BLM about the possibility of relocating his claims.

It is unfortunate that appellant was not fully advised of the recordation requirements of FLPMA. However, every person who deals with the Federal Government is presumed to have knowledge of relevant statutes and duly promulgated regulations thereunder. Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947); Donald H. Little, 37 IBLA 1 (1978); 44 U.S.C. §§ 1507, 1510 (1976).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Douglas E. Henriques
Administrative Judge

We concur:

Bernard V. Parrette
Chief Administrative Judge

Anne Poindexter Lewis
Administrative Judge

